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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/874,931	06/05/2001	David A. Spear	3600.100-Cont.	3517

7590 07/21/2003
David M. Quinlan PC
40 Nassau Street
Princeton, NJ 08542

EXAMINER

VERDIER, CHRISTOPHER M

ART UNIT	PAPER NUMBER
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3745

DATE MAILED: 07/21/2003

18

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/874,931

Applicant(s)

SPEAR ET AL.

Examiner

Christopher Verdier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18, 19, 22 and 23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18, 19, 22 and 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 17.
- 4) ☒ Interview Summary (PTO-413) Paper No(s). 18.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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Applicants' amendment dated May 19, 2003 has been carefully considered but is deemed non-persuasive. Claims 18-19 and 22-23 are pending. The claims have been amended to overcome the rejections under 35 USC 112, first and second paragraphs set forth in the previous Office action. Correction of the above matters is noted with appreciation.

Receipt of Applicants' Statement Re Surrender of Original United States Patent 5,642,985 dated May 19, 2003 is acknowledged. The Proposed Supplemental Reissue Declaration dated May 19, 2003 has been reviewed, and is defective for the reasons set forth below.

The examiner notes that there are no prior art rejections pertaining to claims 18-19 and 22-23 of the instant application. The Declaration of Frans A.E. Breugelmans has been carefully reviewed, and the examiner agrees with Applicants that claim 18 of the present application and claim 8 of U.S. Patent 6,071,077 define the same invention. The examiner disagrees with Applicants that claims 2-7 and 10-13 of U.S. Patent 6,071,077 correspond to count 1, because references teachings these features are required, and the features recited in claims 2-7 and 10-13 of U.S. Patent 6,071,077 are not inherent in claim 18 of the present application.

Reissue Applications

The reissue oath/declaration filed with this application is defective (see 37 CFR 1.175 and MPEP § 1414) because of the following:

It is unsigned by inventors Bruce Biederman, John Orosa, and the Legal Representative of the deceased inventor David Spear.

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It does not state that Dennis Kantor is the Legal Representative of the deceased. See MPEP 605.04(a).

Claims 18-19 and 22-23 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

The nature of the defect(s) in the declaration is set forth in the discussion above in this Office action.

Information Disclosure Statement

The information disclosure statement filed May 19, 2003 fails to comply with 37 CFR 1.97(c) because it lacks a statement as specified in 37 CFR 1.97(e). It has been placed in the application file, but the information referred to therein has not been considered.

The information disclosure statement filed May 19, 2003 fails to comply with 37 CFR 1.97(c) because it lacks the fee set forth in 37 CFR 1.17(p). It has been placed in the application file, but the information referred to therein has not been considered.

Because the above information disclosure statement cites Reissue Patent 38,040, which is a continuation of the instant application, the examiner has listed this reference on form PTO-892.

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Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Berkey, Stalker, Hausmann, Ehrich, Mizuta, Czechoslovakian Patent 110,505, and French Patent 996,967 are cited to show turbomachines with convergent ducts and blade tips.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Verdier whose telephone number is (703)-308-2638. The examiner can normally be reached on Monday-Friday from 10:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward K. Look can be reached on (703) 308-1044. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.

C.V.
July 11, 2003


Christopher Verdier
Primary Examiner
Art Unit 3745